

No. 12431

United States
Court of Appeals
for the Ninth Circuit.

DEAN ACHESON, Secretary of State of the
United States,

Appellant,

vs.

YEE KING GEE by YEE DON FOUND, his next
friend,

Appellee.

Transcript of Record

Appeal from the United States District Court,
Western District of Washington
Northern Division.

FILED
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PAUL P. O'BRIEN,
CLERK

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF COUNSEL

J. CHARLES DENNIS,

United States Attorney,
1017 U.S. Court House,
Seattle 4, Washington,

Attorney for Appellant.

J. P. SANDERSON,

301-2 Second & Cherry Bldg.,
Seattle 4, Washington,

Attorney for Appellee.

GERALD SHUCKLIN of

HILE, HOOFF & SHUCKLIN,
533 Dexter Horton Bldg.,
Seattle 4, Washington,

Attorney for Appellee.

United States District Court, Western District
of Washington, Northern Division

No. 1922

YEE KING GEE, by YEE DON FOUND, his next
friend,

Plaintiff,

vs.

GEORGE C. MARSHALL, Secretary of State of
the United States,

Defendant.

COMPLAINT

Comes now Yee King Gee, by his next friend,
plaintiff herein, and for cause of action alleges as
follows:

I.

That plaintiff Yee King Gee is an infant of the
age of Six (6) years, and brings this action through
his father and next friend, Yee Don Found, a citi-
zen of the United States.

II.

That defendant George C. Marshall is the duly
appointed, qualified and acting Secretary of State
of the United States; that the American Consul
General at Canton, China, is an official of the State
Department of the United States acting under the
direction of George C. Marshall as Secretary of
State of the United States.

III.

That jurisdiction of this action is conferred upon this Court by Section 503 of the Nationality Act of 1940, 54 Stat. 1171, 8 USCA 903.

IV.

That plaintiff Yee King Gee is an American National, born March 16, 1941, in Suey Lung village, Hoi San, Kwangtung, China, and is now there; that Yee King Gee is the son of Yee Don Found who is a citizen of the United States by virtue of Section 1993 of the Revised Statutes of the United States; that Yee King Gee claims his permanent residence as Seattle, Washington, where his father resides.

V.

That the American Consul General at Canton, China, has refused to recognize the American nationality claimed by plaintiff herein on the ground that the said Yee Don Found did not reside continuously in the United States for a period of ten (10) years next prior to the birth of plaintiff herein on March 16, 1941, and has refused to issue to said plaintiff a passport or travel document so that he could obtain transportation, come to the United States and apply for admission into the United States as a national thereof.

VI.

That Section 201(g) of the Nationality Act of 1940, 8 USCA 601, provides:

“The following shall be nationals and citizens of the United States at birth:

* * *

(a) A person born outside the United States and its outlying possessions of parents one of whom is a citizen of the United States who, prior to the birth of such person, has had ten years' residence in the United States or one of its outlying possessions, at least five of which were after attaining the age of sixteen years, the other being an alien * * *.”

VII.

That the said Yee Don Found arrived in the United States at Boston, Massachusetts on August 6, 1929, at the age of seventeen years, when he was admitted as a citizen of the United States by the Immigration Service and issued Certificate of Identity No. 61814 dated September 3, 1929, File 2500/8382; that thereafter the said Yee Don Found made two temporary visits to China as follows: Departed from the United States subsequent to August 11, 1936, and from Vancouver, British Columbia, August 29, 1936 on the Steamship Talthybius, and returned to the United States at Seattle, Washington, August 9, 1938; departed from Seattle, Washington, January 6, 1940 and returned via San Francisco on the Steamship President Coolidge; that on each of said trips Yee Don Found had in his possession a Citizen's Return Certificate, Form 430, issued by the Immigration Service without time limitation; that Yee Don Found is a bona fide

and established resident of Seattle, Washington, residing at #400 Aurora Avenue.

VIII.

That the two visits to China aforesaid made by Yee Don Found were for the purpose of visiting his relatives and for no other reason; that the said Yee Don Found never intended to abandon his United States residence; that he has in fact resided continuously in the United States since August 6, 1929, being more than ten years prior to the birth of the plaintiff herein on March 16, 1941.

IX.

That photographs of Yee Don Found and Yee King Gee showing a good present likeness are attached hereto.

Wherefore, plaintiff prays for an order and judgment of this Court as follows:

1. Declaring the plaintiff Yee King Gee to be a national of the United States.

2. Granting to the plaintiff herein such other and further relief as may be just in the premises.

/s/ J. P. SANDERSON,

/s/ GERALD SHUCKLIN,

Attorneys for Plaintiff.

Photographs of Yee Don Found and Yee King Gee attached.

[Endorsed]: Filed January 16, 1948.

[Title of District Court and Cause.]

ANSWER

Comes now George C. Marshall, Secretary of State of the United States of America, defendant above named, by and through J. Charles Dennis, United States Attorney for the Western District of Washington, and John E. Belcher, Assistant United States Attorney, and for answer to plaintiff's complaint, admits, denies, and alleges:

I.

Answering paragraph I of plaintiff's complaint, this answering defendant is without information sufficient to form a belief as to the allegations contained therein and therefore denies the same.

II.

Answering paragraph II of plaintiff's complaint, defendant admits the same.

III.

Answering paragraph III of plaintiff's complaint, defendant denies the jurisdiction of this court, but alleges the fact to be that jurisdiction is lodged in District Court of the United States for the District of Columbia.

IV.

Answering paragraph IV of plaintiff's complaint, defendant denies that the plaintiff is an American National, is without information sufficient to form a belief as to whether plaintiff was born on the date

alleged, or that the plaintiff is the son of Yee Don Found, and therefore denies the same, and also denies that Yee Don Found is an American citizen, and especially does he deny that plaintiff is a permanent or other resident of the City of Seattle, in the State of Washington.

V.

Answering paragraph V of plaintiff's complaint, defendant admits that the American Consul General at Canton, China, has refused to recognize the American nationality claimed by plaintiff, has refused to issue to plaintiff a passport or travel document to come to the United States to make application for admission into the United States as a National thereof.

VI.

Answering paragraph VI of plaintiff's complaint, defendant admits the same.

VII.

Answering paragraph VII of plaintiff's complaint, defendant admits the same.

VIII.

Answering paragraph VIII of plaintiff's complaint, defendant denies the same and the whole thereof.

IX.

Answering paragraph IX of plaintiff's complaint, defendant admits the same.

Further Answering Plaintiff's Complaint and By Way of Affirmative Defense Thereto, This Answering Defendant Alleges and Shows:

I.

That plaintiff is not now and never has been a resident of the City of Seattle, King County, Washington, nor the Northern Division of the Western District of Washington, and by reason thereof this court is without jurisdiction over the defendant or the subject matter of this action.

II.

That defendant is located and has his office in the City of Washington in the District of Columbia and exclusive jurisdiction is by law lodged in the United States District Court for the District of Columbia.

And for a Second Affirmative Defense This Answering Defendant Shows:

I.

In the event this court takes jurisdiction of the subject matter of this action, defendant alleges the father of plaintiff, Yee Don Found, had not resided in the United States for a period of ten years at the time his alleged son, the plaintiff herein, is alleged to have been born in China, in the month of March, 1941; that said residence at said time did not exceed the period of eight years and four months, and it was for this reason that the Consul

General at Canton, China, with the approval of the State Department of the United States of America, denied plaintiff's application for a passport or travel permit to travel to the United States.

Wherefore, having fully answered, defendant prays that:

1. This court determine its own jurisdiction.

2. In the event this court determines it has jurisdiction, that upon the hearing it enter an order, judgment or decree to the effect that the plaintiff is not entitled to the relief sought or any relief whatsoever.

/s/ J. CHARLES DENNIS,
U. S. Attorney,

/s/ JOHN E. BELCHER,
Assistant U. S. Attorney,
Attorneys for Defendant.

[Endorsed]: Filed October 27, 1948.

[Title of District Court and Cause.]

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter having come on to be heard before the undersigned Judge of the above entitled Court upon the application of the plaintiff Yee King Gee by Yee Don Found, his next friend, under the Nationality Act of 1948, Title 8, U.S.C.A. sec. 903, for a judgment of this Court declaring him to be a

citizen of the United States and the matter coming on regularly for hearing, the petitioner appearing in Court both personally and through his counsel J. P. Sanderson and Gerald Shucklin and the defendant appearing through the United States District Attorney and the Court having listened to the evidence introduced on behalf of the plaintiff and considered arguments, statements and briefs of counsel, and having fully considered the matter, and the Court being fully advised in the premises, hereby makes the following:

Findings of Fact

I.

That plaintiff, Yee King Gee, was an infant of the age of six (6) years at the time of the commencement of this action and brought this action through his father and next friend, Yee Don Found, a citizen of the United States.

II.

That the former defendant, George C. Marshall at the time of the commencement of this action, was the duly appointed, qualified and acting Secretary of State of the United States; that during the pendency of this action Dean Acheson became the duly appointed, qualified and acting Secretary of State of the United States and is now acting in said capacity; that on April 18, 1949, Dean Acheson, as Secretary of State of the United States within six months after he assumed office was ordered by this Court to be substituted as party defendant herein;

that the American Consul General at Canton, China is and was an official of the State Department of the United States acting under direction of the Secretary of State of the United States.

III.

That jurisdiction of this action is conferred upon this Court by Section 503 of the Nationality Act of 1940, 54 Stat. 1171, 8 U.S.C.A. 903.

IV.

That plaintiff, Yee King Gee, is a national of the United States, born March 16, 1941 in Suey Lung Village, Hoi San, Kwangtung, China; that Yee King Gee is the son of Yee Don Found who is a citizen of the United States by virtue of Section 1993 of the Revised Statutes of the United States; that Yee King Gee claims his permanent residence as Seattle, Washington, where his father resides; that such claim is and has been made in good faith and upon substantial basis.

V.

That the American Consul General at Canton, China, refused to recognize the American nationality claimed by plaintiff herein on the claimed ground that Yee Don Found, plaintiff's father had not resided in the United States for a period of ten years next prior to the birth of plaintiff herein on March 16, 1941, and refused to issue to plaintiff a passport or travel document so that he could obtain transportation to the United States and apply for admission into the United States as a national

thereof; that subsequently upon appeal to the Secretary of State plaintiff was allowed to come to the United States for the purpose of prosecuting this action.

VI.

That the said Yee Don Found, father of the plaintiff, arrived in the United States at Boston, Massachusetts on August 6, 1929, at the age of seventeen years, when he was admitted as a citizen of the United States by the Immigration Service and issued Certificate of Identity No. 61814 dated September 3, 1929, File 2500/8382; that thereafter the said Yee Don Found made two temporary visits to China as follows: Departed from the United States subsequent to August 11, 1936, and from Vancouver, British Columbia, August 29, 1936, on the Steamship Talthybus, and returned to the United States at Seattle, Washington, August 9, 1938; departed from Seattle, Washington, January 6, 1940, and returned via San Francisco on the Steamship President Coolidge; that on each of said trips Yee Don Found had in his possession a Citizen's Return Certificate, Form 430, issued by the Immigration Service without time limitations; that Yee Don Found is a bona fide and established resident of Seattle, Washington.

VII.

That the two visits to China aforesaid made by Yee Don Found were for the purpose of visiting his relatives and for no other reason; that the said Yee Don Found never intended to abandon his

United States residence; that he has in fact resided in the United States since August 6, 1929, being more than ten years prior to the birth of the plaintiff herein on March 16, 1941, as required by Section 201 (g) Nationality Act of 1940, Title 8 U.S.C.A., Section 601.

Done in Open Court this 8th day of September, 1949.

/s/ LLOYD L. BLACK,

U. S. District Judge.

From the foregoing Findings of Fact, the Court now makes the following:

Conclusions of Law

I.

That plaintiff Yee King Gee is entitled to have his United States citizenship confirmed by an appropriate decree of this Court which has jurisdiction under section 503 of the Nationality Act of 1940, Title 8, U.S.C.A., Section 903.

Done in open Court this 8th day of September, 1949.

/s/ LLOYD L. BLACK,

U. S. District Judge.

Approved as to form.

/s/ JOHN E. BELCHER,

Asst. U. S. Attorney.

Received a copy of the within Findings this 1st day of Sept., 1949.

/s/ J. CHAS. DENNIS,

Attorney for Defendant.

[Endorsed]: Filed September 8, 1949.

In the United States District Court for the Western
District of Washington, Northern Division

No. 1922

YEE KING GEE, by YEE DON FOUND, his next
friend,

Plaintiff,

vs.

DEAN ACHESON, Secretary of State of the
United States,

Defendant.

DECLARATORY JUDGMENT OF CITIZENSHIP

This matter having come on to be heard before the undersigned Judge of the above entitled Court upon the application of the plaintiff Yee King Gee by Yee Don Found, his next friend, under the Nationality Act of 1948, Title 8, U.S.C.A. sec. 903, for a judgment of this Court, declaring him to be a citizen of the United States and the matter coming on regularly for hearing; the petitioner appearing in Court both personally and through his counsel J. P. Sanderson and Gerald Shucklin and the defendant appearing through the United States District Attorney and the Court having listened to the evidence introduced on behalf of the plaintiff and considered arguments, statements and briefs of counsel, and having fully considered the matter, and having heretofore filed its Findings of Fact

and Conclusions of Law, now, therefore, it is hereby

Ordered, Adjudged and Decreed that the plaintiff Yee King Gee, whose photograph, initialed by the undersigned, is attached hereto, and made a part hereof, is hereby declared to be a citizen of the United States by reason of the fact that the petitioner is the foreign born blood son of a United States citizen, to-wit: Yee Don Found, and Yee King Gee is therefore himself a United States citizen under Section 201 (g) Nationality Act of 1940, Title 8, U.S.C.A., Section 601.

This Judgment is made pursuant to, and under the authority of Section 503 of the Nationality Act of 1940, Title 8, U.S.C.A., Section 903.

Done in open Court this 8th day of September, 1949.

/s/ LLOYD L. BLACK,
U. S. District Judge.

Approved as to form.

/s/ JOHN E. BELCHER,
Assistant U. S. Attorney.

Photograph, initialed L.L.B., of Yee King Gee attached.

Receipt of copy acknowledged.

[Endorsed]: Filed September 8, 1949.

[Title of District Court and Cause.]

NOTICE OF APPEAL

To: Yee King Gee, plaintiff herein, and Yee Don Found, his next friend, and to J. P. Sanderson and Gerald Shucklin, attorneys:

Notice is hereby given that the United States of America, defendant above named, hereby appeals to the United States Court of Appeals for the Ninth Circuit from the Declaratory Judgment of Citizenship entered in the above court on the 8th day of September, 1949.

/s/ J. CHARLES DENNIS,
United States Attorney.

/s/ JOHN E. BELCHER,
Assistant U. S. Attorney.

[Endorsed]: Filed November 8, 1949.

[Title of District Court and Cause.]

APPELLANT'S STATEMENT OF POINTS ON APPEAL

The points involved in this appeal are questions of law:

1. Did the District Court for the Western District of Washington have jurisdiction of this proceeding?

2. Where a minor child born in China in 1941 as the lawful issue of the marriage of an American male citizen and a Chinese woman, which minor child had never been in the United States, can such minor child claim as his residence the domicile of his father, who resides in Seattle?

3. If the father of such minor child had not resided in the United States for a period of ten years immediately preceding the birth of that child in China, is the child a national of the United States, under the provisions of 8 U.S.C.A., Sec. 601(g)?

/s/ J. CHARLES DENNIS,
United States Attorney.

/s/ JOHN E. BELCHER,
Assistant U. S. Attorney.

Receipt of copy acknowledged.

[Endorsed]: Filed December 14, 1949.

[Title of District Court and Cause.]

PRAECIPE AND DESIGNATION OF
RECORD ON APPEAL

To: The Clerk of the Above Entitled Court:

The above named defendant does hereby designate the following portions of the records and proceedings in the above entitled cause for inclusion in the record on appeal to the United States Court of Appeals, and requests the Clerk to prepare and

transmit the same within the time required by law:

1. Complaint.
2. Answer.
3. Findings of Fact and Conclusions of Law.
4. Judgment.
5. Notice of Appeal with date of filing.
6. This designation.
7. Statement of points on appeal.
8. Transcript of trial proceedings.
9. All exhibits.

/s/ J. CHARLES DENNIS,
United States Attorney.

/s/ JOHN E. BELCHER,
Assistant U. S. Attorney.

Receipt of copy acknowledged.

[Endorsed]: Filed December 14, 1949.

In the District Court of the United States for the
Western District of Washington, Northern
Division

No. 1922

YEE KING GEE, by YEE DON FOUND, his next
friend,

Plaintiff,

vs.

DEAN ACHESON, Secretary of State of the
United States,

Defendant.

May 10, 1949.

Black, J.

Appearances:

GERALD SHUCKLIN,

Attorney at Law, appearing for and on
behalf of plaintiff.

J. CHARLES DENNIS,

United States Attorney, appearing for and
on behalf of defendant.

TRANSCRIPT OF TRIAL PROCEEDINGS

The Court: There is on the calendar for this
time the petition of Yee King Gee by his next
friend, Yee Don Found, to be declared a citizen.

How long, Counsel, do you think the hearing will
take?

Mr. Shucklin: We should finish today, [1*] to-day, your Honor.

Mr. Dennis: It is Mr. Belcher's case, and it might take a little longer on that account.

The Court: My recollection was that it was Mr. Belcher's confident opinion that it would take about an hour.

Mr. Dennis: This morning is the first time I have had opportunity to study it.

(Discussion between Court and Counsel and opening statement by Mr. Shucklin.)

The Court: Do you have any opening statement, Mr. Dennis, at this time?

As I understand it, both sides agree that the father of this petitioner was not physically present in the United States a total of ten years prior to the birth of the petitioner.

Mr. Shucklin: Yes, your Honor.

The Court: There may be some difference of a few days or a few weeks, but the aggregate period of physical presence in the United States in any event would not be as much as ten years.

Mr. Shucklin: That is correct.

The Court: That is one of the main issues in this case.

Mr. Dennis: The only other issue, as I [2] understand, is whether this Court has jurisdiction——

The Court: ——or whether the action should be brought in the District of Columbia.

Mr. Dennis: Yes.

The Court: That is why I said the question of eight years and some months physical presence was one of the main question in this case.

Mr. Shucklin: Of course, the other question is this: we claim the domicile of the father is the domicile of the infant.

The Court: When did the infant get here?

Mr. Shucklin: 1949.

The Court: When did the mother actually get here?

Mr. Shucklin: The mother actually got here in November, 1948.

The Court: When did the two elder brothers actually get here?

Mr. Shucklin: November, 1948.

The Court: All right. You may proceed.

Mr. Shucklin: I will call Mr. Yee Don Found.

The Court: Do you have any opening statement, Mr. Dennis, at this time?

Mr. Dennis: No, your Honor. Those are our [3] contentions.

YEE DON FOUND

a witness produced on behalf of plaintiff, being first duly sworn, testified on oath as follows:

Direct Examination

By Mr. Shucklin:

Q. Will you please tell us your name?

A. Yee Don Found.

Q. Where do you reside, Mr. Yee?

A. 517 7th Avenue South.

(Testimony of Yee Don Found.)

The Court: What city?

The Witness: Seattle.

Q. Who resides there with you?

A. My wife and the children.

Q. All right. What is your wife's name?

A. Yee Shee.

Q. Is she in the courtroom at this time?

A. Yes.

Q. The lady in the blue coat? A. Yes.

Q. And who else resides there with you?

A. Yee Chuck Ming.

Q. And who is he?

A. That is my son. [4]

Q. And is he the son of Yee Shee also?

A. Yes.

Q. Is he in the courtroom? A. Yes.

Q. Would you please point him out?

A. The one on that seat there (indicating spectator), standing up now.

Q. The boy standing up? A. Yes.

Q. Who else? A. Yee Chuck You.

Q. Yee Chuck You. And the "You" is spelled "Y-o-u"? A. Yes.

Q. Is he in the courtroom? A. Yes.

Q. Where is he?

A. The one standing up now.

Q. And who else? A. Yee King Gee.

Q. And is he in the courtroom? A. Yes.

Q. Would you point him out?

A. Yes, the smallest boy.

(Testimony of Yee Don Found.)

Q. Now, what is your business?

A. Grocery store and meat market. [5]

Q. And where is that place of business?

A. 400 Aurora Avenue, Seattle.

Q. Are you an American citizen? A. Yes.

Q. Where were you born?

A. I was born in China.

Q. And where in China?

A. Suey Lung Village.

Q. How do you spell Suey? A. S-u-e-y.

Q. And I notice in Immigration records it is also spelled Thuey, T-h-u-e-y Lung?

The Court: Suey Lung Village?

Mr. Shucklin: Yes, your Honor.

Q. And what date was that?

A. September 14, 1913.

Q. Was your father a citizen of the United States? A. Yes.

Q. And what is his name?

A. Yee Wing Haw.

Q. Yee Wing Haw, is that right? A. Yes.

Q. When did you first enter the United States?

A. In August, 1929.

Q. Well, do you remember the date? Was it approximately [6] August 6th?

A. August 6th, yes.

Q. What was your route from China to the United States? Through Canada, I believe?

A. Through Canada, yes.

(Testimony of Yee Don Found.)

Q. You entered the western part of Canada at Vancouver?

A. Yes, we landed in Vancouver, and took the train across Canada to Boston.

Q. You finally entered at Boston?

A. Yes, finally entered at Boston.

Q. Was your father residing at Boston at that time? A. Yes.

Q. And what was the address in Boston?

A. 51 Harvard Street.

Q. What did you do after you came to this country? A. Go to school.

Q. Was it your intention to make the United States your home at that time? A. Yes, sir.

Q. Has that been your intention since that time?

A. Yes, sir.

Q. Now, did you work while you were in Boston the first time?

A. No, I was not actually working.

Q. Just going to school? [7]

A. Just going to school.

Q. Then what did you do?

A. Then my father and I went to Santa Barbara, California.

Q. And about what year was that?

A. That was around 1930.

Q. And what did you do in Santa Barbara?

A. Oh, I go to school, and I also work part time in a restaurant.

(Testimony of Yee Don Found.)

Q. Did you acquire an interest in the restaurant later? A. Yes.

Q. What was that interest?

A. I owned \$500 of the business.

Q. You paid in \$500? A. Yes.

Q. And what interest did you have in it? I mean, what fraction?

A. Well, it was about one-fifth of the business.

Q. How long did you stay in Santa Barbara?

A. Oh, I think about four years.

Q. Did you maintain an address any place?

A. 51 Harvard Street.

The Court: What city?

The Witness: Boston.

Q. Was that during the time you were in Santa Barbara also? [8] A. Yes, sir.

Q. Then what did you do?

A. Then I go back to Boston and live at 51 Harvard Street.

Q. Was your father with you, too?

A. Yes.

Q. Did you work in Boston?

A. Yes, I work; not regular; just part-time.

Q. What was your permanent residence after coming to the United States.

A. The United States.

Q. United States? A. Yes.

Q. Was that your intention when you left China?

A. Yes, that is what I intended to do when I left.

(Testimony of Yee Don Found.)

Q. To have your permanent residence in the United States? A. Yes, sir.

Q. And did you ever change that intention?

A. No.

Q. You always regarded the United States as your residence? A. Yes, sir.

Q. Your permanent residence?

A. Yes, sir.

Q. Now, in 1936, what did you do?

A. Then I went to China. [9]

Q. And what was the purpose of your trip?

A. Oh, to see my mother and the rest of the family.

Q. What was your intention when you left the United States then? To come back?

A. Yes, I intended to come back in a short while.

Q. Was that visit that you made temporary or permanent? A. Temporary.

Q. Did you get a certificate of identity at that time? A. Yes, I got a certificate.

Q. Pardon me? A. Yes, I got a certificate.

Q. Now, what happened after you got back to China? A. I married.

Q. And whom did you marry?

A. Yee Shee.

Q. And she is your present wife? A. Yes.

Q. Did you have any conversation with her about where you were going to live after your marriage?

A. Yes, I believe so.

Mr. Dennis: Just a minute. I object to that.

(Testimony of Yee Don Found.)

Q. Well, what was your intention about your home after you got married?

A. To live in United States. [10]

Q. What were you going to do about your wife?

A. I hoped that some day the law would allow her to come and live with me in the United States.

Q. At that time you could not bring her in?

A. No.

Q. Now, when you were in China, did you work?

A. No.

Q. Were there any children born at the time of your first visit? A. Yes.

Q. When were you married? Do you remember the American date?

A. Yes, November 29, 1936.

Q. Now, was there a child born while you were there? A. Yes.

Q. And what was the child's name?

A. Yee Chuck Ming.

Q. That is the boy that you pointed out?

A. Yes.

The Court: Yee Chuck Ming?

The Witness: Yee Chuck Ming.

Q. When was he born?

A. November 10, 1937.

Q. Do you remember the CR date?

A. The CR date? Let me see. [11]

Q. The Chinese Republic date.

A. Yes, the CR date is CR 26—, 10th month and 8th day.

(Testimony of Yee Don Found.)

The Court: CR 26, 10th month and 8th day?

The Witness: Yes.

Q. Now, when did you return to the United States?

A. I returned to the United States in the early part of August, 1938.

Q. Now, when you returned to the United States,—at that time where was it your intention to go?

A. I intended to go back to Boston, Massachusetts.

Q. Did you have an address there,—a residence there? A. Yes, 51 Harvard Street.

Q. Had you paid any rent on that place?

A. Yes.

Q. Beginning when?

A. Beginning in 1929.

Q. You mean right up to the time that you went back to the United States, is that correct?

A. Yes.

Q. And did you pay rent while you were in Santa Barbara too? A. Yes.

Q. You did? A. Yes.

Q. Now, what port did you enter in 1938? [12]

A. Seattle, Washington.

Q. Now, was there anything that changed your plan then?

A. Oh, because my uncle was in Seattle, and so I stayed in Seattle.

Q. And at what address?

(Testimony of Yee Don Found.)

A. 517 7th Avenue South, Seattle.

Q. Is that where you are now? A. Yes.

Q. Now, was there any other child born after your return to the United States? A. Yes.

Q. And his name is what?

A. Yee Chuck You.

The Court: Yee Chuck You?

The Witness: Yee Chuck You, yes.

Q. And when was he born?

A. January 26, 1939.

Q. Do you remember the CR date of that?

A. CR 27, the 12th month, and the 7th day.

Q. Now, had you formed any intention about bringing your children to the United States?

A. Yes.

Q. And what was your intention?

A. Well, I intended to take the children to the United States to live with me. [13]

Q. Had you determined at what age or anything?

A. Well, I expected them to be around ten years old.

Q. And why ten?

A. Well, because they are too small without their mother's care. I could not bear to bring them over before.

Q. After you returned or came to the United States at that time, where did you go?

A. I stayed in Seattle for a little while, and then went to Marshfield, Oregon.

Q. Marshfield, Oregon?

(Testimony of Yee Don Found.)

A. Marshfield, Oregon. I worked in the kitchen of the Chandler Hotel.

The Court: What hotel?

The Witness: Chandler Hotel.

Q. How long did you work there?

A. About eight months.

Q. And where did you work after that?

A. Then I went to China on a visit again.

Q. About when was that?

A. I left Seattle January 6, 1940.

Q. Now, what was your intention about the United States at the time you left that time?

A. I intended to come back to the United States.

Q. And where was your residence at that time?

A. 517 7th Avenue South, Seattle, Washington.

Q. Did you keep that residence although you went down to Marshfield to work?

A. Yes, because I put all my personal property there.

Q. At 517 7th Avenue South?

A. 517 7th Avenue South.

Q. Now, did you work when you went back to China? A. No, sir.

Q. And at whose home was your wife and children? A. My parents' house.

Q. In Suey Lung Village?

A. In Suey Lung Village.

Q. Did you work in China, then?

A. No, sir.

Q. Now, was there another child born after you went to China? A. Yes.

(Testimony of Yee Don Found.)

Q. And who is that child?

A. Yee King Gee.

Q. And will you point him out?

A. Right in the middle; the small one (indicating child on spectators' bench).

Q. And when was he born?

A. He was born March 16, 1941.

Q. And what was the CR date? [15]

A. CR 30, 2nd month, and the 19th day.

Q. When did you return to the United States?

A. August 28, 1941.

Q. Was that in Seattle?

A. San Francisco.

Q. San Francisco?

A. And then I came back to Seattle.

Q. You mean the port you entered was San Francisco?

A. Yes, the port was San Francisco.

Q. Did you come back to Seattle? A. Yes.

Q. When you left the United States in 1940, did you have a citizen's return certificate?

A. Yes.

Q. When you came to Seattle in 1941, where did you live?

A. 517 7th Avenue South, Seattle, Washington.

Q. Now, after King was born,—after Yee King Gee was born, what was your intention about bringing your sons to the United States?

A. Yes, when they grow up a little bit bigger.

Q. You were going to do what?

(Testimony of Yee Don Found.)

A. I was going to bring them to the United States to live with me.

Q. Did you discuss it with your wife?

A. Yes, I told her about it. [16]

Mr. Dennis: Just a moment. I object to any conversation with his wife.

The Court: Just a moment, Counsel. I am somewhat of the opinion that in connection with determining intent that an individual's statement as to discussing intent as to children with his wife is admissible. I am not saying the Court should or should not give very much weight to the testimony.

Mr. Dennis: Conversation between husband and wife?

The Court: I am of the opinion that in connection with intention that a witness should have the right to say what discussion he had, and it is permitted for him to say his intention was to do a certain thing. I will concede that from a practical standpoint it is very difficult to rebut such, but I will let Counsel know that, personally, I have no objection to testimony by a witness touching upon his conversation with his wife in connection with intent.

Now, I am not compelling petitioner or plaintiff's counsel to run such risk as there may be in my ruling, and if plaintiff's counsel would rather submit to defendant's objection, he may.

What do you want me to do, Mr. Shucklin? [17]

Mr. Shucklin: I think he has a right to show he discussed his intention with his wife.

(Testimony of Yee Don Found.)

Mr. Dennis: I haven't objected to that question. I objected to any conversations between himself and his wife. That is what I objected to, conversation between husband and wife.

The Court: You are objecting to his saying that he conveyed that intention to his wife?

Mr. Dennis: No, that was not the question.

The Court: All right.

Mr. Dennis: He was asked if he discussed the question with his wife, and he said he did, and I object to anything further between husband and wife.

The Court: Then the particular question put you are not objecting to?

It was the answer——

Mr. Dennis: It was the answer he was giving I was objecting to. I did not object when he said he had a conversation, but I object to the conversation.

The Court: All right. I will sustain the objection to further than that.

Q. Did you discuss your intention to bring your children to the United States with your wife? [18]

A. Yes——

Q. Now, that is all you can say. After you came to Seattle, was there another child born?

A. Yes.

Q. And the name of the child?

A. Yee Suey Jin.

Q. Was that a daughter? A. A daughter.

Q. And when was she born?

(Testimony of Yee Don Found.)

A. She was born March 2, 1942.

Q. What was the CR number on that?

A. CR 31, the 2nd month and the 5th day.

Q. Did she die? A. She died, yes.

Q. What was the date of her death?

A. The date?

Q. The American date?

A. The American date was some time in July. I don't know the exact date on that; in 1947.

Q. In 1947. Do you know what the CR number was?

A. The CR was CR 36, the 6th month, 1st day.

The Court: CR 36, 6th month, first day?

The Witness: Yes.

Q. 36-6-1, is that it? A. Yes. [19]

Q. Now, after you returned to Seattle, what did you do?

A. I worked in the Hollywood Poultry Farm at Woodinville.

Q. Did you return to 517 7th Avenue South?

A. Yes, 517 7th Avenue South, Seattle.

Q. Did you still maintain that as your residence?

A. Yes.

Q. Then, after you left the Hollywood Poultry Farm, what did you do?

A. Then I worked a short time in the China Pheasant in Seattle as a waiter.

The Court: After leaving the Hollywood Poultry Farm, where did you work?

The Witness: In the China Pheasant restaurant.

(Testimony of Yee Don Found.)

Q. As a waiter? A. As a waiter.

Q. How long did you stay there?

A. A very short while.

Q. Then what did you do?

A. When the war broke out, I worked in the Seattle-Tacoma Shipyard, Plant B, as a metal mechanic.

Q. How long did you work there?

A. Oh, all the—approximately three years.

Q. During that time did you establish a business, too? A. Yes, at 400 Aurora Avenue. [20]

Q. What is that place called?

A. Central Market.

Q. Do you remember about what year you established that?

A. I believe it was some time in May, 1944.

Q. Do you still have that place?

A. I still have that place.

Q. Now, after that time, did you try to do anything about bringing your family to the United States? A. Yes.

Q. When was that? When did you start?

A. I started right after the war is over.

Q. And what steps did you take?

A. I made at that time affidavit for the children and wife to come over.

Q. An affidavit for the children and the wife?

A. Yes.

Q. Now, your wife was allowed to come in after that time?

(Testimony of Yee Don Found.)

A. Well, at that time, not exactly, but we were waiting and planning at that time that when the law was changed we planned to bring the children and the wife over if the wife was allowed.

Q. But if the wife was not allowed, were you going to bring the children?

A. We would bring the children.

Q. Were you going over there for them, or were you going [21] to——

A. I did not plan to go back to bring them over.

Q. They were going to come over by themselves?

A. Yes, that is what we planned; what I planned.

Q. You planned that? A. Yes.

Q. Then what happened?

A. When Yee King Gee was refused by the Consul General in Canton City, it was very upsetting to my wife, and so she was worried because the boy was not coming, and I am afraid on account of that it would be upsetting to my wife and make her worry, because the boy could not come with her. So I went to China.

Q. You said “upset”?

A. Yes, make her worry.

Q. Okay. So then what did you do?

A. Then I went to China to try to do what I could, to talk to the Consul General in Canton City and also to comfort the wife so she will not be worried so much.

(Testimony of Yee Don Found.)

Q. Then did the Consul General tell you why he would not allow Yee King Gee to come?

A. Yes, he told me it was because I was not in the United States ten years before he was born.

Q. Yes. [22]

A. But I explained to him I stayed here more than eleven years, and I asked him what reason; and he told me that he has asked the State Department to give that decision.

Q. What happened then?

A. Then I couldn't wait, so I came with the wife and the two older boys and went to the United States on November 18, 1948.

Q. Did you have a passport?

A. Yes, I had my passport.

Q. And on November 18, 1948, who came to the United States then?

A. My wife and two older boys, older sons.

Q. That is Yee Chuck Ming and Yee Chuck You?

A. Yes.

Q. Where did you go to live?

A. 517 7th Avenue South.

Q. And that is where they are now?

A. Yes.

Q. Did Yee King Gee come to the United States later?

A. Later, yes.

Q. When was that?

A. February 24, 1949.

Q. Where is he living now?

A. 517 7th Avenue South, Seattle. [23]

Q. What is Yee Chuck Ming doing now?

(Testimony of Yee Don Found.)

A. He is going to Warren Avenue School?

Q. Going to the Warren Avenue School?

A. Yes.

Q. And Yee Chuck You?

A. Also in the same school.

Q. And Yee King Gee?

A. The same school.

Q. In the Warren Avenue School?

A. Yes, Warren Avenue School.

Q. Do you still have the business at 400 Aurora Avenue? A. Yes.

Q. Did you purchase any property?

A. Yes, I buy a little property here.

Q. Is the property where the store is?

A. Yes.

Q. Any other property? A. No.

The Court: Counsel, I am going to declare a recess at this time, and it will be my plan to reconvene at one o'clock.

Is that going to interfere with anybody's plans too materially?

(No response.)

(Recess until 1:00 p.m.) [24]

Q. The store is at 400 Aurora Avenue?

A. Yes, and 402 and 404 and 710 Harrison. That is what they call the property.

Q. They call the property that? A. Yes.

Q. When you came in 1941, did you register for the draft? A. Yes.

(Testimony of Yee Don Found.)

Q. And is Yee King Gee your son?

A. Yes.

Q. And is he the son of Yee Shee?

A. Yes, son of Yee Shee, too.

Q. And is Yee Chuck Ming your son?

A. Yes.

Q. And the son of Yee Shee? A. Yes.

Q. And is Yee Chuck You your son?

A. Yes.

Q. And the son of Yee Shee? A. Yes.

Q. And have you brought this action as the next friend of your son? A. Yes.

(Certificate of Identity marked Plaintiff's Exhibit 1 for identification.) [25]

Mr. Shucklin: Mr. Dennis says he has no objection to this, but I think I had better have it identified.

Q. Showing you Plaintiff's Exhibit 1 for identification, will you look at this?

A. (Witness does so.)

Q. Do you know what that is?

A. That is my citizenship paper.

Q. Is that the citizenship identification that you received when you first came to the country?

A. Yes.

Q. In what year? A. In 1929.

Mr. Shucklin: We offer this in evidence.

Mr. Dennis: No objection.

The Court: Exhibit 1 admitted.

(Testimony of Yee Don Found.)

(Document previously marked Plaintiff's Exhibit 1 for identification received in evidence.)

(Visitor's Permit No. 938,222 marked Plaintiff's Exhibit 2 for identification.)

Q. Showing you Plaintiff's Exhibit 2 for identification, do you know what that is? A. Yes.

Q. What is that? [26]

A. That is one my son got when he arrived in the United States.

Q. All right. Tell which son?

A. Yee King Gee. He received it from the Immigration office in San Francisco.

Q. And you kept it in your possession?

A. Yes.

Mr. Shucklin: I offer Plaintiff's Exhibit No. 2 for identification in evidence.

Mr. Dennis: No objection.

The Court: Exhibit 2 admitted.

(Document previously marked Plaintiff's Exhibit No. 2 for identification received in evidence.)

(Passport No. 127,792 marked Plaintiff's Exhibit No. 3 for identification.)

Q. When you last went to China, did you obtain a passport? A. Yes.

(Mr. Shucklin hands Plaintiff's Exhibit No. 3 for identification to Mr. Dennis.)

(Testimony of Yee Don Found.)

Mr. Dennis: I fail to see the materiality of this.

The Court: Are you objecting on the ground it is immaterial? [27]

Mr. Dennis: Yes, it is immaterial.

The Court: It has not been offered yet.

Mr. Shucklin: I have only had it marked for identification.

Mr. Dennis: No objection to the identification of it.

Q. Showing you plaintiff's Exhibit 3 for identification, will you state what that is, if you know?

A. It is my passport.

Q. Was that issued to you where?

A. In the United States.

Q. Where in the United States?

A. State Department.

Q. Where did you receive it?

A. 517 7th Avenue South.

Q. Where did it come from? How did it come to you? By mail? A. By mail.

Mr. Dennis: What was the date of it?

Mr. Shucklin: November 10, 1947.

We offer this in evidence.

The Court: Exhibit No. 3 is offered.

Mr. Dennis: I object on the ground that it is absolutely immaterial, a passport in 1947.

Mr. Shucklin: Passports are only issued to [28] citizens of the United States.

Mr. Dennis: Well, we don't deny he is a citizen of the United States.

(Testimony of Yee Don Found.)

The Court: Objection overruled. It is admitted for what it is worth.

(Passport previously marked Plaintiff's Exhibit 3 for identification received in evidence.)

(Documents marked Plaintiff's Exhibits 4 and 5 for identification.)

Mr. Shucklin: These are communications from the State Department, and I think Mr. Dennis has agreed they may go in.

Mr. Dennis: No objection.

The Court: Exhibits 4 and 5 are admitted, upon stipulation, I guess. Would that be it?

Mr. Dennis: Yes.

The Court: Exhibits 4 and 5 admitted on stipulation.

(Documents previously marked Plaintiff's Exhibits 4 and 5 for identification received in evidence.)

Mr. Shucklin: Does your Honor wish to read these now?

The Court: Yes. [29]

(Court reads Plaintiff's Exhibits Nos. 4 and 5.)

The Court: You may proceed.

Mr. Shucklin: The Government has certain files in reference to Yee Don Found, and we understood at first the file was going to be put in, but I under-

(Testimony of Yee Don Found.)

stand now that if there are any documents in the Immigration file we wish offered we can read them into the record and make copies, is that correct?

Mr. Dennis: Yes. The code provides specifically for the introduction of Government records. These are Government records. I am perfectly willing that certified copies be presented to the Court, and not the original records. That is specifically provided for in the code. I am perfectly willing to read anything you wish into the record, and later offer photostatic copies without the necessity of their being certified.

The Court: It is not going to be very helpful to me if you just read it.

Mr. Shucklin: There was a misunderstanding, because we understood from Mr. Belcher that he was going to put the file in as part of the Government's case.

Mr. Dennis: I have no objection to their being lodged with the Clerk, but not as part of the [30] record. You can read them to the Court.

The Court: Why not lodge them with the Clerk and specify those particular pages that you want me to consider as being in evidence, and then you may supply photostats of same for the record. Is there any reason you can't do that?

Mr. Shucklin: The only difficulty is taking them out of the custody of the Clerk. There may be a question about that. I don't know.

(Discussion between Court and Counsel.)

(Testimony of Yee Don Found.)

The Court: I will provide for your being allowed to photograph what you want in. I wish the record to show clearly the designation of what you are putting in, because I do not want to make my ruling on the basis of testimony that is not in evidence.

Mr. Shucklin: Very well. I will now refer to office memorandum from District Director, Boston, Massachusetts, to District Director, Seattle, Washington, dated April 22, 1947, File 1200-20420 over 7030-11309.

(Mr. Shucklin reads from document referred to, photostatic copy of which was thereafter received in evidence as Plaintiff's Exhibit No. 6.)

Mr. Shucklin: The next document is [31] under the caption of Immigration and Naturalization Service, Seattle 4, Washington, Seattle File No. 120-20420 over 7030/11309. Report made at Seattle, Washington; date May 26, 1947, by John H. Kulander, Immigrant Inspector.

(Mr. Shucklin reads document, photostatic copy of which was thereafter received in evidence as Plaintiff's Exhibit No. 7.)

Mr. Shucklin: The next document is under the heading of United States Department of Labor, Immigration and Naturalization Service, Form 430—Application of Alleged American Citizen of the Chinese Race for Pre-Investigation of Status, dated December 29, 1939.

(Testimony of Yee Don Found.)

(Mr. Shucklin reads from document referred to, photostatic copy of which was thereafter received in evidence as Plaintiff's Exhibit No. 8.)

Q. Showing you document dated December 29, 1939, headed United States Department of Labor, Immigration and Naturalization Service, I will ask you to state if you have seen that document? Is that your signature?

(Showing document marked Plaintiff's Exhibit 8.) [32]

A. Yes.

Q. And in English? A. Yes.

Q. And is that your signature in Chinese?

A. Yes.

Q. And is that your photograph? A. Yes.

Mr. Shucklin: The next is an application of alleged American citizen of the Chinese race for pre-investigation of status, dated Boston, Massachusetts, dated July 23, 1936, with the same wording as the last exhibit.

(Mr. Shucklin reads from document photostatic copy of which was thereafter received in evidence as Plaintiff's Exhibit No. 9.)

Q. Now, showing you this document headed, "U. S. Department of Labor-Immigration and Naturalization Service, Boston, Massachusetts, July 23, 1936," I ask you to examine that document.

A. Yes.

(Testimony of Yee Don Found.)

Q. Did you sign this document? A. Yes.

Q. Is that your Chinese signature on there?

A. Yes. [33]

Q. And is this your signature in English, Yee Don Found? A. Yes.

Q. Is that your photograph? A. Yes.

Mr. Dennis: May it please the Court, I will object to this. It is getting back to the father of this citizen. I don't see any possible materiality or relevancy that it has with this case.

The Court: Why is that important?

Mr. Shucklin: This is the original application, your Honor, in which the father states he wishes to depart and re-enter through the Port of Boston.

The Court: As I understand it, the Government is not contesting the citizenship of Yee Don Found whatsoever; they are admitting he is an American citizen.

Mr. Dennis: No, there is no question of it.

The Court: All right. Then you are conceding his American citizenship?

Mr. Dennis: I am conceding this witness is an American citizen.

The Court: All right. [34]

Mr. Shucklin: You may cross-examine.

Cross-Examination

By Mr. Dennis:

Q. Now, then, your name is Yee Don Found, is that right? A. Yes.

(Testimony of Yee Don Found.)

Q. Now, Mr. Found, you left Boston August 21, 1936? A. That is correct.

Q. And returned on August 9, 1938?

A. Yes.

Q. And you left the United States on January 6, 1940? A. Yes.

Q. And you returned September 4, 1941?

A. Yes.

The Court: Just a minute. When did you return?

The Witness: Well, we were in San Francisco August 28, 1941.

Q. August 28, 1941? A. Yes.

Q. Now, you came to this country when?

A. In 1929.

Q. In 1929. That date was——

A. August 6, 1929.

Q. August 6, 1929? [35] A. Yes.

Q. The first time you left this country was when? A. August 21, 1936.

Q. That is right. And this boy of yours was born on what date?

A. You mean Yee King Gee?

Q. The boy in question?

A. He was born March 16, 1941.

Q. Now, this action that you have instituted here was started on the 10th day of March, 1948, is that correct? A. What we start?

Q. You started this action on March 10, 1948?

A. Yes, I guess, just about.

(Testimony of Yee Don Found.)

Mr. Dennis: May I see the original file to check the date?

Mr. Shucklin: Whatever the date shows.

The Witness: Yes, it must be—whatever the date shows.

Q. This action was started on March 10, 1948, was it not? A. Yes.

Q. On March 10, 1948, where was your wife?

A. In China.

Q. Your wife was in China. Where were your three [36] children? A. In China.

Q. Neither your wife nor any of your children had ever been to the United States, had they? They did not come to the United States until November of this year, was it, or December?

A. Last year.

Q. What? A. November, 1948.

Q. November, 1948. Now, when you came back from China the second time—I beg your pardon. The first time you went to live with your uncle, is that correct?

The Court: The first time?

Mr. Dennis: The first time.

A. You mean the first time? That means what year?

The Court: 1936.

Mr. Dennis: Withdraw the question.

Q. When was it that you first began to live with your uncle? A. 1938.

Q. Who else was living there in that house?

(Testimony of Yee Don Found.)

A. My uncle, and he usually had some cousins, too.

The Court: How many?

The Witness: Let me see. At that time [37] there was—well, the cousins came a little bit later, but not much later, though. They were still in China then, and they came around—a few months later. We all lived together in 517 7th Avenue South, Seattle. I think that he had three cousins, and they all came. One would come one time, and the others would come different times.

Q. Well, how many of you lived in that house?

A. Five.

Q. Is your uncle still living? A. Yes.

Q. How many live in that house at the present time?

A. He is in China now, temporarily.

Q. On March 10, 1948, how many people lived in that house?

A. Well, there were three regular, and occasionally he had some friends come in for a short while.

Q. Three regulars, and he had some others come in? A. Yes.

Q. Was this house owned by your uncle?

A. No.

Q. Did he rent it? A. We rented it.

Q. Your uncle was the first one that rented the house, is that correct? [38]

A. Yes, as far as I know.

Q. You did not rent it?

(Testimony of Yee Don Found.)

A. Well, I helped pay the rent because we lived there.

Q. Yes, but it was in his name, so far as the rent goes? A. Yes, I believe it was.

Q. Now, going back to the first time you came across, you came to Boston, Massachusetts, and the name of that street is Howard Street, or Harvard Street?

A. At that time I—you know how it is—I did not know how to spell very good.

Q. It is Hudson Street, as a matter of fact?

A. Hudson Street is not the place where I lived. Hudson Street is a store where I have my mail, and I always have it delivered to that store in case I am not in the house, and I may lose my letter or important documents. So I use Hudson Street for any important letter, to make sure somebody receive it and I would not lose it.

Q. Now, you went to live with your father back there, didn't you? A. Yes.

Q. You went to school? A. Yes.

Q. What school did you go to back there? [39]

A. I went to what we call a Union School at that time.

Q. How is that spelled?

A. I did not know much English at that time. We called it the Union. It must be Union.

Q. You did not work at that time?

A. No, I did not work at that time.

Q. When was it that you first started to work?

(Testimony of Yee Don Found.)

A. When I was in Santa Barbara; some time in 1930. I just worked part-time, of course.

Q. And when you say "part-time," what do you mean?

A. Part-time. In school day time, and work after school.

Q. You worked a little after school?

A. Yes.

Q. Before you went back to China?

A. Yes.

Q. How many years had you actually done any work outside of going to school?

A. Well, I actually done approximately around three years part-time work.

Q. But you hadn't at any time done anything except part-time work up until you went back to China? That is correct, isn't it?

A. That is right. I did not do steady work.

Q. In other words, you were getting an education in this country? [40]

A. That is right.

Q. You went back, then, to China. You say that you got a certificate of identity. Did you buy a round-trip ticket when you went to China?

A. I did not buy a round-trip ticket.

Q. You bought a one-way ticket, didn't you?

A. Yes.

Q. And when you were in China you married your present wife, is that correct? A. Yes.

Q. You knew at that time she could not come to the United States? A. That is right.

(Testimony of Yee Don Found.)

Q. And you left and returned to the United States afterwards? A. Yes.

Q. That was about the time the war started in China, wasn't it?

A. Well, not very far, before the war started in China, yes.

Q. Just about the time the war was fought in China? A. Yes.

Q. Then you went across on the second trip, and what children were born at that time?

A. The second time was Yee King Gee. [41]

Q. By the way, why don't they have your last name?

A. They have my last name because it is the custom that we always call the surname as the first. Yee is really our last name.

Q. In other words, that is the Chinese method, isn't it?

A. Right now, when we are in school or in business we always use the Yee as the last, for the reason that is the surname. The name is Yee Don Found.

Q. And in bringing this action you said Yee King Gee. You didn't say anything about Yee King Found?

A. No, Yee is the family name; I mean the surname.

Q. In other words, the children are named according to the Chinese custom, aren't they?

A. When we come here we do use Yee. That is what we write in school. In my business—you

(Testimony of Yee Don Found.)

can check up—I always use Yee as the last name, because when we live here, we use the regular American way.

Q. What is your name then?

A. Right now we call it Yee Don Found, but in my business or any association, we always call it Don Found Yee, or sometimes Don F. Yee. That is what I have been using in business.

The Court: Don Found Yee?

The Witness: Or Don F. Yee; sometimes [42] just use the middle initial.

Q. When you signed the papers, how did you sign the papers then?

A. Because I had to follow the name when I come here, I use that name all the time.

Q. The name isn't Yee Don Found. It is Don Found Yee, isn't it?

Mr. Shucklin: I object to that. The witness has already explained that in Chinese his last name is Yee. I think he is mixing up the witness.

The Court: This is cross-examination. Objection overruled. You may have redirect on it.

Q. Now, then, you said on direct examination that your father—by the way, is your father living now?

A. My father and mother, yes.

Q. And your *mother* and mother are both in China, are they?

A. Yes.

Q. And that is why your children and your wife were permitted to stay and were staying there until last November?

A. Yes.

(Testimony of Yee Don Found.)

Q. When did you stop paying rent on that apartment in Boston? [43]

A. When did I stop?

Q. Yes.

A. When I decided to live with my uncle at 517 7th Avenue, then I stopped because I still during that time have some bedding or some personal belongings in that house.

Q. Where was your father at that time?

A. My father was remaining in China because he is not in very good health.

Q. Did *you* father go to China the same time you did? A. 1936.

Q. So you and your father both went back to China in 1936, that is correct, is it?

A. That is right.

Q. And your father remained there, and your mother remained there? A. Yes.

Q. And you came back? A. I came back.

Q. Had you paid any rent on that Boston apartment prior to the time you went——

A. I paid up to the time I decided to live with my uncle.

Q. How much rent did you personally pay?

A. We—— [44]

Q. I am not talking about “we.” I am talking about you.

A. Myself. You see—we paid—I am sorry. I am thinking of my father, too. You see my father paid rent, too; about \$25.00 a year.

Q. What did you have? A room there?

(Testimony of Yee Don Found.)

A. We had two-room apartment.

Q. You had a two-room apartment, and the rental of that was how much?

A. I paid \$25.00; approximately \$25.00 a year.

Q. And when did you stop paying it?

A. I stopped about 1938.

Q. Who lived in that apartment while you were over in China?

A. I had some friend living there.

Q. Your friend lived there while you were in China, and you never went back there?

A. I was intending coming back there when I came back until I seen the uncle in Seattle. So I settled down in Seattle and did not go back to Boston.

Q. How did you send this \$25.00 to Boston, when you were in China?

A. I was paying in advance before I went home.

Q. How much did you pay in advance?

A. I gave the people who rented that place—I forget how much money, but I think around \$50.00.

Q. As a matter of fact, these people that were in that place paid the rent while you were in China, didn't they?

A. They paid some, too.

Mr. Dennis: That is all.

Redirect Examination

By Mr. Shucklin:

Q. What is your family name? A. Yee.

Q. Y-e-e? A. Y-e-e.

Q. What is Yee King Gee's family name?

(Testimony of Yee Don Found.)

A. Yee.

Q. What is the custom in China about the family name, whether it is the first or last?

A. Yee; that is the family name.

Q. In China does the family name come first?

A. Yes.

Q. And that is the way it is in this action?

A. That is right.

(Witness excused.) [46]

CHARLES WAH

sworn as interpreter.

Mr. Shucklin: I will call Yee King Gee.

Mr. Dennis: We will waive the oath as far as the boy is concerned. There is no reason to swear him.

The Court: All right.

YEE KING GEE

a witness produced in his own behalf as the plaintiff, testified as follows:

Direct Examination

By Mr. Shucklin:

Q. Will you please state your name?

A. Yee King Gee.

Q. Where do you live?

A. 517 7th Avenue South, Seattle.

Q. Who else lives there with you?

(Testimony of Yee King Gee.)

A. My father and my mother and my two older brothers.

Q. Do you see your father in the courtroom?

A. Yes.

Q. Point to him.

A. (Witness points to Yee Don Found.)

Q. Do you see your mother here? A. Yes.

Q. Point her out.

A. (Witness points to Chinese woman.)

Q. Do you see your older brothers?

A. Yes.

Q. Are they in the courtroom? A. Yes.

Q. What are their names?

A. The older brother is Yee Chuck Ming, and Yee Chuck You.

Q. Do you go to school? A. Yes.

Q. Where do you go to school?

A. I do not know the name of the school.

Q. Is it the Warren Avenue School?

A. Yes.

Mr. Shucklin: You may examine.

Mr. Dennis: No questions.

(Witness excused.)

YEE SHEE

a witness produced on behalf of plaintiff, being first duly sworn through the interpreter, testified on oath as follows:

Direct Examination

By Mr. Shucklin:

Q. Will you please state your name? [48]

A. Yee Shee.

Q. Where do you live?

A. 517 7th Avenue South, Seattle.

Q. Are you married? A. Yes.

Q. What is the name of your husband?

A. Yee Don Found.

Q. Do you have a family? A. Yes.

Q. Of what does the family consist?

A. My husband, my three sons, and myself.

Q. Do they live with at the same place you live?

A. Yes.

Q. What are the names of your children?

A. The first son is Yee Chuck Ming; the second son is Yee Chuck You; and the third son is Yee King Gee.

Q. Who is the father of each of the children?

A. Yee Don Found.

Q. When were you married?

A. CR 25-10—I think the 16th day.

Q. Where were you married?

A. At Suey Lung Village.

Q. At the time of your marriage, did you know

(Testimony of Yee Shee.)

that your husband, Yee Don Found, was an American citizen? [49] A. Yes, I did.

Q. What, if anything, did he tell you concerning his return to the United States?

Mr. Dennis: I object to that, may it please the Court, on the ground that it is conversation between husband and wife, and it is not admissible.

The Court: Well, just a minute——

Mr. Shucklin: I will ask the husband if he consents.

The Court: All right. You may ask that first.

Mr. Shucklin: Yee Don Found, do you consent that your wife testify concerning the conversation with you?

Mr. Yee Don Found: Yes.

Mr. Shucklin: Do you agree she can tell what you told her?

Mr. Yee Don Found: Yes.

The Court: All right. Any objection now?

Mr. Dennis: Yes, I object to it as immaterial.

The Court: Your opinion is that a conversation between husband and wife can't be put in with the consent of either? [50]

Mr. Dennis: That is my contention.

The Court: In any case?

Mr. Dennis: No, a case between the husband and wife, or where the wife or husband has received a criminal——

The Court: Well, is it your position that the husband never can produce a wife as a witness?

(Testimony of Yee Shee.)

Mr. Dennis: He can produce her as a witness, but not to testify to a conversation between the two.

The Court: Even where they consent?

Mr. Dennis: Yes.

The Court: Have you any decisions supporting that position?

Mr. Dennis: Not with me.

The Court: I will allow you to make an offer of proof under oath. This will be considered as an offer of proof. I will hear her, and if I come to the conclusion that Mr. Dennis is right, I can disregard it. If I come to the conclusion his objection is not well taken, I then will have it before me. It will be understood now that you are under an offer of proof until you make clear that you have stepped away from the offer of proof. All right; you may answer the question. [51]

(The question read.)

A. After we were married, he planned to return to the United States within a short period, but as soon as the law is permissible, he shall apply for my admission to the United States.

Mr. Shucklin: That is the end of the offer.

Q. Where did you stay after your marriage?

A. I lived at Suey Lung Village in my husband's parents' house.

Q. When was Yee Chuck Ming born?

A. CR 26-10-8th day.

Q. When was Yee Chuck You born?

(Testimony of Yee Shee.)

A. CR-27-12-7th day.

Q. When was Yee King Gee born?

A. CR-30-2-12th day.

Q. Was there a daughter born to you and your husband? A. Yes.

Q. What was the daughter's name?

A. Yee Suey Jin.

Q. When was Yee Suey Jin born?

A. CR-31-2-5.

Q. Is Yee Suey Jin still living? A. No.

Q. When did she die? [52]

A. She died CR-36-6-1.

Q. Was it your intention to come to the United States when you had the opportunity to do so?

A. Yes.

Q. On the visits that your husband made to China, did he work while he was in China?

A. No.

Q. What was your intention about sending your children to the United States?

A. My intention was to come with them to the United States.

Mr. Shucklin: You may cross-examine.

Cross-Examination

By Mr. Dennis:

Q. When you came to the United States, where did you go to live?

A. 517 7th Avenue South, Seattle.

Q. Who was living there at that time?

A. My husband and my two sons.

(Testimony of Yee Shee.)

Q. Was the house vacant when you went there, or was there anybody else living there?

A. The house had someone living there.

Q. And who was it who lived there?

A. A fellow by the name of Tang Buck. [53]

Q. Did your husband's uncle live there?

A. No, he is not there.

Q. Didn't he live there when you came there? When you came first, didn't your husband's uncle live there? A. No.

Q. Just this fellow named Chuck?

A. Tang Buck.

Q. Just this fellow named Tang Buck. Was that the only one? A. Yes.

Q. And no one else lives there but you folks at the present time? A. Yes.

Redirect Examination

By Mr. Shucklin:

Q. Was your husband's uncle in China at the time you arrived in Seattle? A. Yes.

Mr. Shucklin: That is all.

Recross-Examination

By Mr. Dennis:

Q. And is he still in China? A. Yes. [54]

Q. When did he go back to China?

A. Around August, 1938, he went to China.

Q. The same time your husband did?

A. No.

Mr. Dennis: That is all.

(Testimony of Yee Shee.)

Redirect Examination

By Mr. Shucklin:

Q. Do you know whether he is going to return to Seattle? A. Yes.

Q. Do you know the reason for the delay in returning?

A. He is waiting to bring his son over.

Recross-Examination

By Mr. Dennis:

Q. He has been over there since 1938? Is that what you said? A. Yes.

Q. He has never been back here since?

A. No.

Q. And your husband's father went over what year? A. About CR-25-8——

The Court: What? CR-25——

The Witness: CR-25-8.

Q. What year is that? A. 1936. [55]

Q. And he has never come back? A. No.

Q. Did your husband's uncle live with you in China? A. No.

Q. Did you pay any expenses over in China?

A. My wife gave me the money and I ran the budget.

Mr. Shucklin: The wife?

The Witness: I mean my husband.

Q. As a matter of fact, your husband's father paid the expenses over there, didn't he?

A. No.

(Testimony of Yee Shee.)

Q. How much did your husband send you over there?

A. He sent several times, but I don't remember the exact amount a year.

Q. What do you mean by several times? One, two, three or four?

A. About four times a year.

Mr. Dennis: That is all.

Mr. Shucklin: That is all.

(Witness excused.)

Mr. Shucklin: We rest.

Mr. Dennis. Defendant rests.

The Court: Plaintiff rests and Defendant rests.
All right. [56]

How much time do you wish for argument?

(Discussion between Court and Counsel as to time for argument.)

The Court: Well, Counsel, there are two questions in this case as I understand it.

One is whether the statute requires physical presence in the United States——

Mr. Shucklin: That is right.

The Court: ——or whether residence for ten years permits his having been in China approaching a year and eight months thereof.

Mr. Shucklin: It may be a little more than that; whatever it is, yes.

The Court: And the other question is whether or not this action was properly brought at the time

it was started in this jurisdiction, or whether it should have been instituted in the District of Columbia.

Mr. Shucklin: Those are the two questions involved in this particular case.

The Court: Without limiting the defense, it would seem to me from what has transpired during this trial and from the memorandum of the defense as well as that of the plaintiff, that those are the issues. [57]

Mr. Dennis: Those are the only issues in the case.

(Argument by Counsel.)

The Court: I am going to speak off the record a moment.

(Discussion off the record.)

The Court: As I have indicated to Counsel informally, without ruling on the question at all, I think there is a serious question as to whether this action should have been brought in this jurisdiction or in the District of Columbia.

I am told by Counsel that insofar as they have been able to discover, there has been no court decision on this question. If that be correct, and there has been no court decision, this, of course, is a question of first impression here. I would like respective counsel to give me as much assistance as they can properly on that issue, and I will also welcome as much further argument as they wish to present on the question of whether or not the

father has had the ten years' residence required by the statute.

(Court fixes time for submission of briefs.)

The Court: The Court hereby notifies the Clerk and authorizes the Clerk to permit Mr. Shucklin to take so much of the record in the file of the Immigration and Naturalization Service now or at such later time within the three weeks' period as he desires for the purpose of having such portions photographed. It is my understanding Mr. Dennis so agrees. Is that right?

Mr. Dennis: Yes, your Honor.

The Court: This hearing and trial is adjourned with the provision for briefs as previously stated this afternoon. [59]

August 25, 1949

Black, J.

COURT'S ORAL DECISION

The Court: The cause of Yee King Gee by Yee Don Found as his next friend, plaintiff, versus Dean Acheson, Secretary of State of the United States, defendant, has been submitted to the Court upon brief having been filed July 28, 1949. The plaintiff, who was the age of six years at the time he instituted the action on January 16, 1948, seeks a decree of this Court declaring him to be a national of the United States.

This action is brought by plaintiff under the authority of Section 903, Title 8, U.S.C.A. The

plaintiff contends that he is the son of an American citizen, and contends that his father at the time of plaintiff's birth resided within the United States more than ten years as required by Section 601, Title 8, U.S.C.A. The plaintiff Yee King Gee was born in China, under the allegations of the complaint, on March 16, 1941, it being alleged that the father was an American citizen and that the mother was a resident and citizen of China.

The defendant has answered contending that in any event under the provisions of Section 903, Title 8, U.S.C.A., that no court other than the District Court of the United States for the District of Columbia has jurisdiction of the matter. The defendant further contends [60] that aside from the question of jurisdiction plaintiff's father at the time of plaintiff's birth had not resided in the United States for ten years as required by Section 601 but only for a period of eight years and some months.

After the institution of the action a certificate of identity was obtained by plaintiff after an appeal permitting him to come personally to the United States until a decision might be rendered in this action.

Since the commencement of the action plaintiff's mother and two older brothers, born before 1940, have come to the United States and are now living in Seattle with Yee Don Found, the father.

Three interesting statutes are involved in the admission of the father originally as a citizen of the

United States and the admission of the two sons born before 1940 and in the contention of the government that the plaintiff, born after 1940, should be excluded.

The law in effect when the father was admitted declared that foreign born children of United States citizens were citizens of the United States at birth. By the time the two older brothers of this plaintiff came upon this earth the law had been changed to provide that children should derive citizenship at birth where born outside of the United States through either parent who was a citizen of the United States, but that such children [61] must arrive in the United States prior to becoming thirteen years of age and must remain five years, or until their eighteenth birthday. In 1940 the law was changed to provide that one of the parents must be a citizen of the United States or a resident of the United States for ten years prior to the birth of the child.

Unquestionably, the father is a citizen of the United States and entitled to remain here. It appears without question that the two older sons are citizens of the United States and entitled to remain here providing they continue to live here the prescribed period. By the law enacted, as I remember it, in 1946 the mother is entitled to admission and to remain.

If the Court were to be guided solely by sentiment, certainly, there would be sufficient tug at the heart strings to decide this issue in plaintiff's favor without delay or question.

Where a statute is plain the Court has but one rightful authority and only one duty. That authority and that duty are to accept and follow the law regardless of how differently the Court might wish the statute to have been worded and regardless of what the law would have been had the judge been a legislator with the deciding vote. Certainly, with a matter as important and precious as citizenship the Court should interpret the [62] law as it is. To allow sentiment in a case to influence the interpretation would ultimately work great injury by reason of an erroneous precedent. My problem, therefore, has been to reach that conclusion that is called for by the statute Congress passed.

In Section 903, Title 8, U.S.C.A., we find this language:

“If any person who claims a right or privilege as a national of the United States is denied such right or privilege by any Department or agency, or executive official thereof, upon the ground that he is not a national of the United States, such person, regardless of whether he is within the United States or abroad, may institute an action against the head of such Department or agency in the District Court of the United States for the District of Columbia or in the district court of the United States for the district in which such person claims a permanent residence for a judgment declaring him to be a national of the United States. . . .”

This section also provides for a certificate of identity for temporary admission to the United

States after the institution of an action providing his claim of nationality presented in such action "is made in good faith and has a substantial basis."

In Section 601 of Title 8, U.S.C.A., there is found this language:

"The following shall be nationals and citizens of the United States at birth: * * *

(g) A person born outside the United States and its outlying possessions of parents one of whom is a citizen of the United States who, prior to the birth of such person, has had ten years' residence in the United States or one of its outlying possessions, at least five of which were after attaining the age of sixteen years, the other being an alien: Provided, That, in order to retain such citizenship, the child must reside in the United States or its outlying possessions for a period or periods totaling five years between the ages of thirteen and twenty-one years: Provided further, That, if the child has not taken up a residence in the United States or its outlying possessions by the time he reaches the age of sixteen years, or if he resides abroad for such a time that it becomes impossible for him to complete the five years' residence in the United States or its outlying possessions before reaching the age of twenty-one years, his American citizenship shall thereupon cease."

The plaintiff's father came to the United States in 1929. In 1936 he left the United States with authority and went to China, where he married. A few days less than two years after his departure he returned to the United States. Early in 1940 he left

the United States again with authority. He returned to the United States in 1941, approximately twenty months after leaving the United States in 1940. Arithmetical computation will disclose that his physical presence in the United States prior to his son's birth in 1941 was about eight years and four months.

The action is brought against the Secretary of State because the American Consul General at Canton, China, refused to recognize the American nationality of plaintiff and refused to allow him to come to the United States as a national of this country either with his father or otherwise.

The United States in its brief says this:

“The answer of the Secretary of State raises no serious question of fact, but the defense is purely a legal question. At the outset the jurisdiction is challenged. In the event this court determines it has jurisdiction, then on the merits we submit the following: * * * So that the total number of years the father was a resident of the United States prior to the alleged birth of his son, the plaintiff, was eight years and four months. * * * The period which persons should live in the United States and be associated with the American manner of life was set by Congress at ten years and not eight years and four months, * * * It appears clear that Congress did not contemplate constructive residence as sufficient under this section of the law since this would in effect defeat the very purpose of the restriction.”

If this court is the wrong court under the statute,

this present action should be dismissed. The law says the action may be instituted in the District Court for the District of Columbia or in the district court of the United States for the district in which such person claims a permanent residence. The statute does not require that the plaintiff bring the action in such district in which he actually has a permanent residence.

This infant child can only make a claim of his residence through his next friend. His next friend, residing in the United States, as the act of the plaintiff claims that Seattle in this Western District of Washington is the permanent residence of the plaintiff.

The plaintiff submits many authorities to the effect that the domicile and residence of the father is the residence of the infant child regardless of where that child may be. There are many expressions of many courts and many text writers which seem to support such position of plaintiff's counsel and therefore of plaintiff.

It is unnecessary to determine whether actually the domicile and residence of the plaintiff from the date of his birth in China was at the residence of his father in the United States. In any event there is sufficient reason for the plaintiff's claim that Seattle is his permanent residence to give this court jurisdiction.

Unquestionably, the claim of the plaintiff through his father as next friend is made in good faith and with substantial basis.

This court has jurisdiction. The defendant does

not dispute the jurisdiction of either this court or the District Court of Columbia to consider this matter under section 903.

Aside from that, it is my recollection that in the case of Chin Wing Dong versus Clark, 76 Federal Supplement 648, I personally held that section 903 authorized such a proceeding as this and in a proper case the relief here sought. That former decision is at least persuasive to me.

In one of the earliest decisions reported interpreting congressional legislation applying to Chinese the court in the matter of Chung Toy Ho and Wong Choy Sin, 42 Federal 398, stated with reference to the admissibility of wives and children of Chinese merchants that "it ought not to be lightly, or without cogent reason, concluded that Congress, in the passage of the Act of 1884" intended to exclude the wives and children. And in such connection the court then states:

"It is impossible to believe that parties to this treaty, which permits the servants of a merchant to enter the country with him, ever contemplated the exclusion of his wife and children."

In *United States versus Rockteschell*, 208 Federal 530, Judge Dietrich speaking for the then Ninth Circuit Court of Appeals, held in substance the following:

"There is nothing in the naturalization act, other than the phrase itself, 'has resided continuously within the United States' to indicate a purpose upon the part of Congress to require continuous physical presence, and in the practical administration of the

law such a construction would entail consequences harsh in the extreme. Within reasonable limits, therefore, it is a question of fact, to be determined in the light of all the attendant circumstances of each particular case, whether the continuity of residence has been broken by temporary absences."

In *United States ex rel Devenuto versus Curran*, Immigration Commissioner, 299 Federal 206, in a decision of the Circuit Court of Appeals for the Second Circuit, it was pointed out that Congress in various statutes had used the terms "residences" and "domicile" and "continuous residence" and particularly commented that if Congress had meant that an alien must remain actually in the territory of the United States uninterruptedly during a specified period, that it should have used language like that of the Act of March 3, 1813, which had this provision:

"For the continued term of five years preceding his admission as aforesaid have resided within the United States without being at any time during the said five years out of the territory of the United States."

Plaintiff's father came to the United States in 1929. Except for an authorized departure from the United States, his residence continued to be in the United States until 1940 in January, when he again went to China. In the light of the language which Congress has used when it clearly wished to prevent any departure and in view of the fact that no such language or similar language was employed in this act, I must hold that the plaintiff's father by 1940

had had a residence in the United States of more than ten years. His departure in 1940 was in good faith and with the permission of the authorities of this country. He returned to the United States within a proper time. Under the statute, the plaintiff upon his birth in China in 1941 was a national of the United States. He is entitled to a decree to such effect. In the light of the decisions I have mentioned and others that I could cite, and in view of the discussion of the congregational committee at the time of the consideration of the applicable statute, I can come to no other conclusion.

Judgment will enter as prayed for.

Mr. Shucklin: Your Honor, just to bring the record up to date, there were four exhibits which I took out of court and had photostated, and they were returned to the file, but they were not given numbers. I was wondering if we should not have them numbered.

The Court: You may have them numbered by the clerk in accordance with the numbering of the originals.

(Photostatic copies of documents referred to were marked Plaintiff's Exhibits 6, 7, 8 and 9 and received in evidence.)

Mr. Shucklin: Your honor, in reference to the judgment to be presented, there will be findings of fact, conclusions of law and judgment?

The Court: I think so.

Mr. Shucklin: And does your Honor entertain

any idea of affixing a photograph of the plaintiff to the judgment?

The Court: If you and counsel agree, I am satisfied. If you do not see alike, I will consider that when that issue arises.

Mr. Shucklin: Will you set a date for the presentation of findings and conclusions and judgment?

The Court: I understand Mr. Belcher is leaving this afternoon to present matters before the Court of Appeals for the Ninth Circuit at San Francisco. You may confer with him.

(Discussion off record between court and counsel.)

Certificate

I, James R. Royse, do hereby certify that I am official court reporter for the above-entitled court, and as such was in attendance upon the hearing of the foregoing matter.

I further certify that the above transcript is a true and correct record of the matters as therein set forth.

/s/ JAMES R. ROYSE,
Official Court Reporter.

[Endorsed]: Filed December 17, 1949.

[Title of District Court and Cause.]

CERTIFICATE OF CLERK U. S. DISTRICT
COURT TO RECORD ON APPEAL

United States of America,
Western District of Washington—ss.

I, Millard P. Thomas, Clerk of the United States District Court for the Western District of Washington, do hereby certify that pursuant to the provisions of Subdivision 1 of Rule 11 as amended of the United States Court of Appeals for the Ninth Circuit, and Rule 75 (o) of the Federal Rules of Civil Procedure, I am transmitting herewith all of the original pleadings on file and of record in said cause in my office at Seattle, as set forth below, and that said pleadings, together with Plaintiff's Exhibits numbered 1 to 9, inclusive, offered in evidence at the trial of said cause constitute the record on appeal from the Judgment for Plaintiff filed and entered September 8, 1949, to the United States Court of Appeals for the Ninth Circuit, to wit:

1. Complaint
2. Praecipe for summons
3. Marshal's return on Summons (U. S. Attorney General)
4. Marshal's return on Summons (U. S. Secretary of State)
5. Appearance for Defendant.

6. Answer of Defendant.
7. Defendant's Memorandum of Authorities
8. Plaintiff's Supplemental Pleading and Motion for Substitution of Party Defendant
9. Plaintiff's Notice of Hearing on Supplemental Pleading and Motion for Hearing
10. Order Substituting Party Defendant
11. Marshal's return on Service of Writ (Dean Acheson, Secretary of State)
12. Brief for Plaintiff.
13. Marshal's return on Service of Writ (U. S. Attorney General)
14. Supplemental Brief of Plaintiff
15. and 16. Plaintiff's Notice of Presentation of Findings of Fact and Conclusions of Law and Declaratory Judgment of Citizenship
17. Findings of Fact and Conclusions of Law
18. Declaratory Judgment of Citizenship
19. Plaintiff's Notice of Appeal
20. Court Reporter's Transcript of Trial Proceedings
21. Appellant's Statement of Points on Appeal
22. Praecipe and Designation of Record on Appeal.

In Witness Whereof I have hereunto set my hand and affixed the official seal of said District Court at Seattle, this 14th day of December, 1949.

MILLARD P. THOMAS,
Clerk.

[Seal] By /s/ TRUMAN EGGER,
Chief Deputy.

[Endorsed]: . No. 12431. United States Court of Appeals for the Ninth Circuit. Dean Acheson, Secretary of State of the United States, Appellant, vs. Yee King Gee by Yee Don Found, his next friend, Appellee. Transcript of Record. Appeal from the United States District Court for the Western District of Washington, Northern Division.

Filed December 17, 1949.

/s/ PAUL P. O'BRIEN,
Clerk of the United States Court of Appeals for the
Ninth Circuit.

United States Court of Appeals
for the Ninth Circuit

No. 12431

DEAN ACHESON, Secretary of State of the
United States,

Appellant,

vs.

YEE KING GEE by YEE DON FOUND, his next
friend,

Appellee.

APPELLANT'S STATEMENT OF POINTS
AND DESIGNATION OF PORTIONS OF
RECORD.

Appellant hereby adopts appellant's points on
appeal and designation of portions of the record to
be printed as heretofore filed with the Clerk of the
United States District Court.

/s/ J. CHARLES DENNIS,
U. S. Attorney.

/s/ JOHN E. BELCHER,
Assistant U. S. Attorney.

Receipt of copy acknowledged.

[Endorsed]: Filed December 27, 1949.